

Matthew A. Brill
Direct Dial: +1.202.637.1095
matthew.brill@lw.com

555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004-1304
Tel: +1.202.637.2200 Fax: +1.202.637.2201
www.lw.com

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November 5, 2019

Via ECF Filing

The Honorable Nancy Torresen
United States District Court for the District of Maine
Edward T. Gignoux U.S. Courthouse
156 Federal Street
Portland, ME 04101

Re: *Comcast of Maine/New Hampshire, et al. v. Mills, et al.*
Docket No. 1:19-cv-00410-NT

Dear Judge Torresen:

I am writing in response to the State Defendants' November 4, 2019 letter regarding the above-captioned matter. The Assistant Attorney General cites case law in support of the State's argument that the Court should construe L.D. 832 to apply only to cable tiers other than the federally mandated basic tier. Assuming arguendo that this proposition is correct, it is immaterial to the ultimate outcome of this case.

Even if the Court adopts the State Defendants' preferred interpretation of L.D. 832, federal law would still preempt the statute. While the State's interpretation might save L.D. 832 from conflict preemption, the statute remains expressly preempted under 47 U.S.C. § 544(f). And, if the Court held otherwise, it would necessarily have to opine on the constitutionality of L.D. 832 because removing editorial discretion over tiers other than the basic tier infringes on cable operators' and programmers' First Amendment rights. *See Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 636 (1994).

Respectfully,

/s/ Matthew A. Brill

Matthew A. Brill
of LATHAM & WATKINS LLP

cc: All Counsel of Record
(via ECF)